

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

DAVID JON BROWN,

Plaintiff,

vs.

SIGNAL PEAK ENERGY, LLC, and
JOHN DOES I-II,

Defendants.

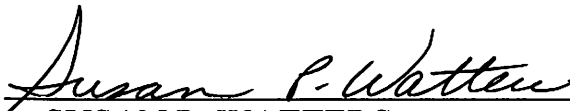
CV 20-180-BLG-SPW

ORDER

Before the Court is Defendant Signal Peak Energy, LLC's Motion to Dismiss Counts II and III, alleging actual fraud and actual malice, respectively, of Plaintiff David Jon Brown's Complaint. (Doc. 9). Signal Peak contends that the counts should be dismissed pursuant to Fed. R. Civ. P. 12(b)(6) because Montana's Wrongful Discharge from Employment Act ("WDEA") pre-empts such claims as they are inextricably intertwined with and based upon his discharge and because Brown fails to allege that he was terminated for refusing to violate public policy or for reporting a public policy violation. (Doc. 9 at 2). Brown did not file a response and instead filed an Amended Complaint. (Doc. 13). A pleading that has been amended under Fed. R. Civ. P. 15(a) supersedes the pleading it modifies, and the original is given no effect, except to the extent the amended pleading

incorporates the original. 6 Fed. Prac. & Proc. Civ. § 1476 (3d ed.). Brown's Amended Complaint neither incorporates nor restates the claims to which Signal Peak's motion refers. Subsequently, Signal Peak's motion (Doc. 9) is DENIED as moot.

DATED this 6th day of April 2021.



SUSAN P. WATTERS
United States District Judge